

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM
Section 7: Rio Brazos

Subfile No. CHRB-003-0012

MOTION TO VACATE CONSENT ORDER

COMES NOW the Plaintiff State of New Mexico, *ex rel.* State Engineer (State) and moves the Court to vacate the Consent Order filed September 19, 2003 (Doc. No. 7232) in connection with subfile CHRB-003-0012 and Defendant Bidal A. Candelaria , and as grounds therefore Plaintiff states as follows:

1. Defendant Bidal A. Candelaria signed and approved the State's proposed Consent Order in subfile CHRB-003-0012 in May 2003. The Consent Order, filed with the Court on September 19, 2003, recognized irrigation water rights on a 2.8 acre tract of land.
2. In the Fall of 2003, the owners of the adjacent property, Frank and Mary Gallegos, contacted the State to discuss the mapping of the irrigation water rights on their property under subfile CHRB-003-0011. Among other concerns, the Gallegos asserted that they were the owners of a portion of the 2.8 acre tract of land mapped under Subfile CHRB-003-0012 (Candelaria). The Gallegos provided the State with deeds and a plat of survey of their lands indicating that the boundary with the Candelaria tract had been incorrectly mapped. Field inspection of fence lines on the property

confirmed this information. The State thereafter corrected the mapping of the Gallegos property, and a revised Consent Order for the Gallegos lands has been approved and filed with the Court. *See* Consent Order filed March 24, 2006 (Doc. No. 8201) (CHRB-003-0011A).

3. Defendant Candelaria has not responded to the State's requests for information concerning this matter, or requests that he approve a revised Consent Order in connection with CHRB-003-0012 or that he contact the State to discuss any disagreement he may have to the revision of that Order.

4. The State has notified Defendant Candelaria of its intent to file a motion to vacate the Consent Order filed September 19, 2003 in Subfile CHRB-003-0012, and requested that Defendant Candelaria contact the undersigned counsel for the State if he was opposed to the motion, but the State has received no response.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to vacate the Consent Order filed September 19, 2003 (Doc. No. 7232) in connection with subfile CHRB-002-0012 and Defendant Bidal A. Candelaria.

Respectfully submitted,

/s/ Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were mailed to following persons on August 3, 2006:

Bidal A. Candelaria
P.O. Box 182
Los Ojos, NM 87551

Frank A. Gallegos
Mary F. Gallegos
P.O. Box 97
Los Ojos, NM 87551

transmitted by ACE filing to the following on the same date.

Special Master Vickie L. Gabin
USDC-DCNM
P.O. Box 2384
Santa Fe, NM 87504-2384